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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,324	05/25/2000	Thomas Nello Giaccherini	HDM2000-1	7267
7590 06/24/2004			EXAMINER	
Anglin & Giaccherini Post Office Box 1146 Carmel Valley, CA 93924			LY, ANH VU H	
			ART UNIT	PAPER NUMBER
			2667	
DATE MAILED: 06/24/2004 9				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/579,324

Applicant(s)

GIACCHERINI ET AL.

Examiner

Anh-Vu H Ly

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2004.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-26 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. This communication is in response to applicant's amendment filed April 05, 2004. The proposed amendment to the claims has been entered. Claims 1-26 are pending.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 8-20, and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al (US Patent No. 6,029,045) in view of Fenwick, Jr. et al (US Pub No. 2003/0204852). Hereinafter, referred to as Picco and Fenwick.

With respect to claim 1, Picco discloses (col. 9, lines 1-7 and Fig. 6) that the private data may be downloaded to each set-top box by a trickle, i.e., background, download technique, a nightly download technique or a dual receiver technique. The trickle technique takes advantage of the fact that the entire bandwidth of the satellite is not utilized at all times and the unused bandwidth may be used to download the private data and local content (utilizing the excess capacity of a network by conveying data over said network during a period of less than maximum usage).

Picco discloses (col. 9, lines 40-48) that the local content is downloaded (receiving data during period of less than maximum usage) to the set-top box in the background and then a

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particular piece of local content may be used once the entire piece of local content resides on a memory or a disk (accumulating data over an extended period of time) in the set-top box.

Picco does not disclose the step of selectively retrieving data by a recipient for on-demand use at a time after said extended period of time.

Fenwick discloses in Figs. 1-2, a video distribution system for providing an interactive display to allow a user to select and control the deliver of program material. Herein, program materials delivered may include terrestrial broadcast, local cable television and satellite-delivered programming such as DirectTV, C-band satellite program feeds and the like. And further, program materials are stored in the serving devices 8 (Fig. 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the feature such as allowing a user to select and control the deliver of program material in Picco's systems, as suggested by Fenwick, to fulfill the desires of the recipients.

With respect to claims 2 and 14, Picco discloses in Fig. 3, a satellite communications system for downloading private data and local content to the set-top box (the network includes a satellite).

With respect to claims 8, 15, 23, and 24, Picco discloses in Fig. 3, a satellite communications system (the network includes a sub-orbital platform).

With respect to claims 9 and 16, Picco discloses in Fig. 3, live feeds and added contents are wired to the uplink 102 for transmissions (the network includes a terrestrial wired network).

With respect to claims 10 and 17, Picco discloses in Fig. 3, a satellite communications system (the network includes a terrestrial wireless network).

With respect to claim 11, Picco discloses in Fig. 3, the uplink 102 for transmitting private data and local content to the set-top box 120 (a gateway means for transmitting a plurality of digitized packets of data). Further, as shown in Fig. 3, satellite 104 is used to relay the digitized packets of data received from the uplink 102 (a relay means for receiving plurality of digitized packets of data from the gateway means). Picco discloses (col. 9, lines 1-7 and Fig. 6) that the private data may be downloaded to each set-top box by a trickle, i.e., background, download technique, a nightly download technique or a dual receiver technique. The trickle technique takes advantage of the fact that the entire bandwidth of the satellite is not utilized at all times and the unused bandwidth may be used to download the private data and local content (retransmitting during a time period when the total communications capacity of the relay means is not fully used)

Picco discloses (col. 9, lines 40-48) that the local content is downloaded (receiving means for collecting plurality of digitized packets of data which are transmitted from the satellite means) to the set-top box in the background and then a particular piece of local content may be used once the entire piece of local content resides on a memory or a disk (receiver means

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including a storage means for accumulating plurality of digitized packets of data incrementally over an extended period of time) in the set-top box.

Picco does not disclose means for selectively retrieving and using plurality of digitized packets of data after a generally full program has been accumulated.

Fenwick discloses in Figs. 1-2, a video distribution system for providing an interactive display to allow a user to select and control the deliver of program material. Herein, program materials delivered may include terrestrial broadcast, local cable television and satellite-delivered programming such as DirectTV, C-band satellite program feeds and the like. And further, program materials (full programs) are stored in the serving devices 8 (Fig. 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the feature such as allowing a user to select and control the deliver of program material in Picco's systems, as suggested by Fenwick, to fulfill the desires of the recipients.

With respect to claim 12, Picco discloses in Fig. 3, a set-top box for downloading, retrieving, and displaying data, wherein, such set-top box is already shielded by the manufacturer for protecting radio frequency interference (receiver means is shielded to eliminate local radio frequency transmissions that could be used to make an unauthorized copy).

With respect to claim 13, Picco discloses in Fig. 3, a shielded set-top box for downloading, retrieving, and displaying data of a registered subscriber (receiver means is tamper-proofed to thwart unauthorized copying).

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With respect to claims 18 and 19, Picco discloses in Fig. 3, the set-top box is located in a house (receiver means is located on the Earth's surface).

With respect to claim 20, Picco discloses in Fig. 3 that the receiver is fixed (receiver means is located in a fixed terminal).

With respect to claims 25 and 26, Picco discloses in Fig. 3, the uplink 102 transmits private data and local content to satellite 104. Herein, the transmissions of data to the satellite take place when the network is not fully utilized, as considered by the examiner, since no congestion was indicated (prior to conveying data over network, transmitting data from a terrestrial station to satellite over network during a period of less than maximum usage of the network).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-7 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picco et al (US Patent No. 6,029,045).

With respect to claims 3 and 7, Picco and Fendwick have addressed all the limitations recited in the independent claims 1 and 11. Picco does not disclose such satellites operate in low

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Earth orbit. However, satellites operating in LEO, MEO, and GEO, are known in the art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to operate the satellites in LEO in Picco's system, since LEO requires less power to operate and short delays comparing to MEO or GEO.

With respect to claim 4, Picco and Fendwick have addressed all the limitations recited in the independent claims 1 and 11. Picco does not disclose such satellites operate in medium Earth orbit. However, satellites operating in LEO, MEO, and GEO, are known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to operate the satellites in MEO in Picco's system, since MEO requires less power to operate and short delays comparing to GEO.

With respect to claims 5 and 6, Picco and Fendwick have addressed all the limitations recited in the independent claims 1 and 11. Picco does not disclose such satellites operate in high Earth orbit or geo-synchronous Earth orbit. However, satellites operating in LEO, MEO, HEO and GEO, are known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to operate the satellites in HEO and GEO in Picco's system, since HEO and GEO requires less satellites to cover the wider range.

With respect to claims 21 and 22, Picco and Fendwick have addressed all the limitations recited in the independent claims 1 and 11. Picco does not disclose the receiver means is located in a portable terminal or a mobile terminal. However, it is known in the art that a portable



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terminal or a mobile terminal is capable of receiving data from base stations or satellites such as cell phones or handheld devices. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the receiver means in the portable terminal or in the mobile terminal in Picco's system, for downloading and displaying data such as text, graphics, etc...

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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White et al (US Pub No. 2003/0189587) discloses interactive video programming methods.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh-Vu H Ly whose telephone number is 703-306-5675. The examiner can normally be reached on Monday-Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

avl

  
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